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SECURITY INFORMATION**Office Memorandum • UNITED STATES GOVERNMENT**

TO : Mr. Pforzheimer

DATE: 14 March 1952

FROM :

25X1

SUBJECT: Whitten Rider

OGC HAS REVIEWED.

1. You requested my comments on the proposed revision to the Whitten Rider as it may possibly affect CIA. For purposes of reference my comments are keyed to the appropriate sections and subparagraphs of said rider.

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1310(a) - Our position on this subparagraph has been that the class of personnel intended to be covered is status personnel and, therefore, not applicable to CIA. In addition, the language that the heads of the executive departments "shall make full use of their authority to require that initial appointment be made on a temporary basis" is a reaffirmation of Executive Order 10180 which confers upon the heads of executive departments, e.g. CIA, the residual right to make appointments on a permanent basis. With respect to promotions our position has been the same as indicated above; namely, that the class of personnel intended to be covered by the language is the permanent status type personnel of the Federal Government. Hence, it is not applicable to the unclassified, ungraded, administrative wage-fixing type personnel. This, of course, requires our construing the statute in a manner which is favorable to our interests and may not necessarily coincide with the interpretation placed on the same statute by the representatives of other agencies. There is a certain liberalization in the revised 1310(a); namely, that agencies may promote employees permanently to a position if such promotion will not increase the number of employees holding permanent positions in the grade of such position in such agency above the number in such grade in such agency prior to September 1, 1950. I believe this provision to be of little benefit to CIA.

1310(b) - There is nothing new here and no comment is required.

1310(c) - This subparagraph is directed at a class of people subject to the Classification Act, therefore of no interest to CIA.

1310(d) - This subparagraph remains unchanged and appears to be applicable to CIA. However, this does not appear to occasion any difficulty except for the submission of reports to the Post Office and Civil Service Committees and Appropriations Committees of the Senate and House which requires information on the total number of employees on the payroll on June 30 with their average grade and salary with similar information for the previous June 30.

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In addition, there is the question of the budget presentation which, presumably, is a problem for the Comptroller to work out in connection with the Bureau of the Budget.

2. It would appear appropriate that some express recognition of the following principles be reflected somewhere so that in the event of question we have some peg on which to hang our hat.

- a) that the Central Intelligence Agency has a planned program for recruitment of personnel based on the peculiarities of the CIA charter.
- b) that in order to effectuate this planned program Executive Order 10180, which tied in with the prior Whitten Rider, vested in the head of the Agency the authority to make appointments on a permanent basis and that this logic of a planned program should apply similarly to promotions.
- c) that rather than raise the issue bluntly and directly, a subtle confirmation of our interpretation and practices be noted.

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OGC/JBK:imm

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